

REMARKS

The claims have been amended to clarify the invention. Claim 10 has been amended to properly recite dependence from claim 9. Claim 11 has been amended to recite the claimed polynucleotide sequences in proper alternative form. No new matter is added by any of these amendments, and entry of the amendments is respectfully requested.

Restriction Requirement

In the Restriction Requirement, the Examiner requested Applicants to elect one of the following inventions:

Group I (claims 1-5) drawn to a composition comprising a plurality of cDNAs

Group II (claims 6, 7 and 10) drawn to high throughput methods for detecting differential expression in a sample.

Group III (claim 8) drawn to a method of using an unspecified cDNA to treat a subject.

Group IV (claim 9) drawn to a high throughput method of identifying a multiplicity of ligands.

Group V (claims 11-14) drawn to isolated polynucleotides, vectors, and host cells. FURTHER RESTRICTION APPLIED BELOW.

Group VI (claim 15) drawn to an isolated polypeptide. FURTHER RESTRICTION APPLIED BELOW.

Group VII (claims 16-17) drawn to a method of using a protein to screen for ligands. FURTHER RESTRICTION APPLIED BELOW.

Group VIII (claim 18) drawn to a method of producing an antibody.

Group IX (claim 19) drawn to a method of purifying an antibody. FURTHER RESTRICTION APPLIED BELOW.

Sequence election requirement applicable to Groups II, V-IX

The Examiner stated that each group detailed above (Groups II and V-IX) reads on patentably distinct SEQ ID numbers, and that applicant must further elect a single SEQ ID NO. (See MPEP 803.04). For encoded proteins, the relevant DNA SEQ ID NO: must be provided. For methods of making antibodies, the relevant DNA SEQ ID NO: of the target protein must be provided. For any claims presently generic that read on a single sequence, or amended to recite a multiplicity of SEQ ID NOs:, applicant must pick a single sequence.

Applicant is advised that examination will be restricted to only the elected SEQ ID NO: and should not be construed as a species election.

Applicants hereby elect, with traverse, to prosecute Group I, which includes and is drawn to Claims 1-5. Applicants submit that the sequence selection applied by the Examiner to Groups III and V-IX, in particular to Group V, is not in accordance with MPEP 803.04. The MPEP at 803.04, gives examples of nucleotide sequence claims containing independent nucleotide sequences recited in the alternative form (Example (A) in MPEP 803.04) and combination claims (Examples (B) and (C) in MPEP 803.04), as in Groups I (claims 1-5) and V (claims 11-14) of the instant application. The MPEP then considers proper restriction in those instances as follows:

In applications containing all three claims set forth in examples (A)-(C), **the Office will require restriction of the application to ten sequences for initial examination purposes.** Based upon the finding of allowable sequences, claims limited to the allowable sequences as in example (A), all combinations, such as in examples (B) and (C), containing the allowable sequences and any patentably indistinct sequences will be rejoined and allowed.

Rejoinder will be permitted for claims requiring any allowable sequence(s). Any claims which have been restricted and nonselected and which are limited to the allowable sequence(s) will be rejoined and examined. (Emphasis added)

Thus proper restriction in the instant application would be to examine Groups I and V together, and to restrict the examination to ten sequences for initial examination purposes for all of claims 1-5 and 11-14. Applicants therefore submit that the examination of claim 1-5 and 11-14 with respect to ten elected sequences would pose no undue burden and is in accordance with MPEP 803.04.

Applicants therefore request reconsideration of the Restriction Requirement and examination of claims 1-5 and 11-14 with respect to the following elected sequences: SEQ ID NOs:1-3, 6, 8-11, 20 and 22.

In the event the Examiner maintains the Restriction Requirement, Applicants reserve the right to prosecute the subject matter of non-elected claims in subsequent divisional applications.

CONCLUSION

Applicants believe that no fee is due with this communication. However, if the USPTO determines that a fee is due, the Commissioner is hereby authorized to charge Deposit Account No. **09-0108**.

Respectfully submitted,

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